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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,819	02/13/2002	James Van Horn	VHCI-0007	7087

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EXAMINER

NGUYEN, TAN D

ART UNIT PAPER NUMBER

3629

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p>Application No.</p> <p align="center">10/074,819</p>	<p>Applicant(s)</p> <p align="center">HORN, JAMES VAN</p>	
	<p>Examiner</p> <p align="center">Tan Dean D. Nguyen</p>	<p>Art Unit</p> <p align="center">3629</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-17,19-21,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-17, 19-21, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/21/05 has been entered.

### ***Claim Status***

Claims 1, 3-15, 16-17, 19-20, 21, 23-24 are pending and are rejected as followed.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-15, 16-17, 19-20, 21, 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) In claim 1, step (a) "receiving a transaction purchase amount from a merchant" is vague since the term "amount" means actual value, i.e. "\$100.00". It appears that this step refers to the purchase amount data or information since information/data is what being sent and received.

(2) Similar in step (b), insertion of "data" or "information" after "identification" is recommended.

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(3) In the last step "a beneficiary that is selectable by the purchaser" is vague and should be corrected to "selected".

(4) It's not clear the relationship of the (b) "receiving a purchaser identification" to the previous step (a) or the remaining steps "(c) determining ..." or "(d) crediting ...".

What is the purchaser identification being used for beside just receiving it. The steps of the claims should be congruent to each other to achieve the scope of the claimed invention and cannot be hanging loose there by itself for no purpose.

3. Claim 16 is vague and indefinite because the preamble calls for a method for fundraising but the last 4 steps have nothing to do with "fundraising", "storing", "contracting", "storing" and "storing". It's not clear the relationship of "transaction proceeds" in the 1<sup>st</sup> step to the rest of the claims (b) "storing".... (c) "storing ..." since there is no discussion of "transaction proceeds" in any of these steps. In the last step, after "identify the purchaser", what is next or what is the usage of the "identified purchaser"?

4. In claim 16, line 7, the term "the merchant donation" lacks antecedent basis. Also, in (c.), line 6, it's not clear the role of the "a purchaser" to the "transaction proceeds" above? It appears that they are related.

5. Claims 21, 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine

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the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “a data store” in claims 21, 23-24 is used by the claim to mean “database”, while the accepted meaning is “database.” The term is indefinite because the specification does not clearly redefine the term.

7. Also, in claims 21, 23-24, a database is for storing a merchant information data, etc., and not mere “a merchant identification”, etc. Correction of the claim language in all of the identification in claim 21 is recommended to improve clarity. In claim 21, it's not clear the “a data store” in the last element (c.) “a donation program card” refers back to the “a data store” in (a) “a data store” or different data store?

8. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the relationship of the (b) “a processor” to (c.) “a donation program card” since there is no discussion with respect to the “card” in (b) and no discussion of “a processor” in (c.).

9. Claims 23 and 24, wherein the data store comprises a magnetic strip or bar code are vague. The data store (database) can not contain a magnetic strip or bar code. Only the card contains the magnetic strip or bar code.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 1, 3-15, 16-17, 19-20, 21, 23-24 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over SINGHAL (US 2002/0008146).**

**As for independent method claim 1, SINGHAL discloses a method for fundraising, comprising:**

(a) receiving information about a transaction purchase amount from a merchant {Fig. 1, 15 and 12, Fig. 4 (35), [0034-35]};

(b) receiving information about a purchaser/consumer identification, from a point of sale location, via a card {see [Fig. 1, Fig. 4, (31), [0008 “universal charity card”], [0030]};

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(c ) determining a donation amount based on the received transaction purchase amount and a donation percentage from the merchant {see [0001 “percentage of sales”], [0010], or [0031]} and

(d) crediting the determined amount to an account of a beneficiary. (see Fig. 1, [0012, 0028, 0038, 0067]).

As for the limitation of “pre-defined donation percentage, this is inherently included in the “as a defined percentage of sales to those customers” as shown in [0001] or [0010]. Alternatively, the use of the limitation “pre-defined” which merely means defined before or in advance would have been to a skilled artisan to do so in advance in order to minimize delay of the step of crediting or to avoid errors due to lack of clear agreement in advance.

**As for dep. claim 3** (part of 1), which deals with well known data input parameters, i.e. reading from a magnetic strip reading device, this is taught in SINGHAL [0027, 0029].

**As for dep. claims 4-5** (part of 1), which deals with well known donation (c.) determining parameters, determining donation amount to each charity organization based on predefined donation percentage, etc., this is taught in Fig. 3, 3A or [0015, 0031].

**As for dep. claim 6** (part of 1), which deals with well known donation transferring parameters, i.e. electronically, this is non-essential to the scope of the claimed invention and is taught in [0038, 0040] of which the invention is carried on the Internet.

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**As for dep. claims 7-12** (part of 1), which deals with well known donation campaign parameters such as storing all relevant information with respect to the purchaser, merchant, beneficiary, etc., these are taught in [0037, 0038], Fig. 1 (10), (20A), Fig. 4.

**As for dep. claim 13** (part of 1), which deals with well known fundraising campaign parameter, preparing a report with details of donation for tax purpose, this is well known practice for the purchaser to prepare tax or for the IRS to verify the charitable tax donation amount.

**As for dep. claim 14** (part of 1), which deals with well known fundraising campaign parameter, i.e. selecting a desired charity by the purchaser, this is non-essential to the claimed invention and is taught by SINGHAL on [0028].

**As for dep. claim 15** (part of 1), which deals with the type of operation, in a batch process, this is non-essential to the scope of the claimed invention and is taught by SINGHAL on [0016, 0040].

Alternatively, as taught in SINGHAL [0041 "*other versions are possible*" or would have been obvious within the scope of the invention and that modifications as shown in the dependent claims above are considered as routine experimentation of adjusting donation parameters or optimizing operating conditions or result effective variables / parameters and the optimizing of result effective variables is considered as routine experimentation to determine optimum or economically feasible reaction conditions and would have been obvious to the skilled artisan, absent evidence of unexpected results. In re Aller, 105 USPQ 233.



**As for independent apparatus claim 21**, which deals with the system for carrying the method of claim 1, it's rejected over the system to carry out the rejection of claim 1 above.

**As for dep. claims 23-24 (part of 21)**, which have the same limitation as in dep. claim 3 above, it's rejected for the same reason set forth in dep. claim 3 above.

**As for independent method<sup>2</sup> claims 16**, which is similar to independent method claim 1 above, with the additional limitations of having a contract with the merchant and a purchaser. Official Notice is taken that to do business properly, a contract between business parties must be written and followed in order to assure every party fulfills its obligation and all of the party members can freely do their work without worrying about the other party failure to perform. For example, a contract for purchasing a house, for renting a house, leasing an office space, hiring a manager or company to do work, etc. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include having a contract with the merchant and purchaser because this is critical for the party of UCCS in SINGHAL to do its job properly.

**As for dep. claim 17 (part of 16)**, which has the same limitation as in dep. claim 8 above, it's rejected for the same reason set forth in dep. claim 8 above.

**As for dep. claims 19-20 (part of 16)**, which deals with information storing parameters, i.e. storing a purchaser name or a number on a donation card, these are taught in Figs. 2A or 2B or [0028].

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**13. Claims 1, 3-15 (method<sup>1</sup>), 16-17, 19-20 (method<sup>2</sup>), 21, 23-24 (apparatus<sup>1</sup>) are rejected (2<sup>nd</sup>) under 35 U.S.C. 103(a) as obvious over (1) NAIR (US 2002/0099654) in view of (2) WO 93/14476 and SINGHAL.**

**As for independent method claim 1, NAIR discloses a computerized method for fundraising, comprising:**

(a) receiving a transaction purchase amount from a merchant {Fig. 13a, 1202a, par [0003]}

(b) receiving a purchaser identification, from a point of sale location, via a card {para. [0003], [0038], [0039], Figs. 6};

(c) determining a donation amount based on the received transaction purchase amount and a predefined donation percentage from the merchant {see [0003, 0004, 0054, 0073, 0074], Fig. 10, (901)} and

(d) crediting the determined amount to an account of a beneficiary. (see Figs. 14a, [0066, 0067]). NAIR fairly teaches the invention except for using a donation program card and not a credit card in step (b). Note that this statement is agreed upon by the applicant on the last response of 1/18/2005.

In another computerized method for fundraising connected to a business purchase transaction, WO 93/14476 fairly discloses the carrying out of step (b) using a donation identification card embodying the purchaser identification wherein the card can be credit card, customer card or donation card {see abstract, page 7, para. (2, 3, 4), page 13, 1<sup>st</sup> paragraph ("*purchasing ... retail businesses ... POS terminals*")}, Fig. 3a,

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12a). Note that WO 93/14476 discloses the various types of identification means, donation cards (plastic, paper, cardboard, or other material), and types of plastic cards (disposable or reusable such as credit card, customer card, or the like) on page 7, 4<sup>th</sup> paragraph.

SINGHAL is cited to teach the carrying out a fundraising / donation campaign using the donation card by either Internet or via telephone or via a person (manually or offsite or not on the Internet) {see [0016]}. It would have been obvious to modify the identification element of step (b) of NAIR by using donation card that is not credit card as taught by WO 93/14476 such as donation card, or customer card or the like as mere using other equivalent identification card if desired as taught by WO 93/14476 above {see page 7, para. (2-4)} and do it manually as taught by SINGHAL if desired.

**As for dep. claim 2** (part of 1), this is taught in NAIR / WO 93/14476 as shown in Fig. 6 of NAIR.

**As for dep. claim 3** (part of 1), this is shown in NAIR / WO 93/14476 as shown in Fig. 8 of NAIR.

**As for dep. claims 4-6** (part of 1), these are taught in NAIR / WO 93/14476 as shown in Fig. 14A-14B of WO 93/14476.

**As for dep. claims 7-11** (part of 1), these are taught in NAIR / WO 93/14476 as shown in NAIR Figs. 10, 13A-C.

**As for dep. claim 12** (part of 1), this is taught in NAIR / WO 93/14476 as shown in NAIR Fig. 6.

**As for dep. claim 13** (part of 1), this is taught in NAIR / WO 93/14476 as shown in NAIR Fig. 5, "account information".

**As for dep. claim 14** (part of 1), this is taught in NAIR / WO 93/14476 as shown in Fig. 6, 519, 515-516.

**As for dep. claim 15** (part of 1), this is taught in NAIR / WO 93/14476 as shown in NAIR Fig. 14A-14C.

Alternatively, as taught in NAIR [0078 "*many changes and modifications are reasonably and properly be included within the scope*"], the various modification as shown in the dependent claims above are considered as routine experimentation of adjusting donation parameters or optimizing operating conditions or result effective variables/parameters and the optimizing of result effective variables is considered as routine experimentation to determine optimum or economically feasible reaction conditions and would have been obvious to the skilled artisan, absent evidence of unexpected results. In re Aller, 105 USPQ 233.

**As for independent apparatus claim 21**, which deals with the system for carrying the method of claim 1, it's rejected over the system to carry out the rejection of claim 1 above.

**As for dep. claim 23** (part of 21), this is taught in NAIR / WO 93/14476 /SINGHAL as shown in WO 93/14476 page 8, 2<sup>nd</sup> full paragraph ("*magnetically encoded (e.g. magnetic strip)*")".

**As for dep. claim 24** (part of 21), this is taught in NAIR / WO 93/14476 /SINGHAL as shown in WO 93/14476, Fig. 3a (48), page 9, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs.

**As for independent method<sup>2</sup> claims 16**, which is similar to independent method claim 1 above, with the additional limitations of storing of the identification of the merchant, or purchaser and wherein the identification of the purchaser on a donation program card and not a credit card, are fairly taught in WO 93/14476 Figs. 3a, 2, page 7, para. 2, 3, 4 and 5.

**As for dep. claims 17, 19, 20 (part of 16)**, these are taught in NAIR / WO 93/14476 /SINGHAL as shown in NAIR Figs. 6, 14a, and WO 93/14476, Fig. 3a (48), pages 6-7.

### ***Response to Arguments***

14. Applicant's arguments that NAIR is carried out on the Internet while WO 93/14476 is carried out offsite is noted. However, SINGHAL has been cited to show that the fundraising process using donation card can be carried out in any process, Internet, phone, or manually if desired, as indicated above.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) US patent 5,621,640 or 6,088,682 by Burke discloses a donor card similarly to the claimed invention, purchaser's information and charity organization to be furnished to computer. To avoid multiple rejections, it's listed here for applicant's awareness of potential use in the future if needed.

No claims are allowed.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail [CustomerService3600@uspto.gov](mailto:CustomerService3600@uspto.gov).

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (571) 272-6812. The FAX phone numbers for formal communications concerning this application are (703) 872-9306. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn  
Jan. 2006

  
DEAN T. NGUYEN  
PRIMARY EXAMINER